



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*86 Chambers Street
New York, New York 10007*

June 25, 2020

By ECF

Honorable Sarah Netburn
United States Magistrate Judge
United States Courthouse
40 Foley Square
New York, NY 10007

Re: *In re Terrorist Attacks of September 11, 2001*, 03 MDL 1570 (GBD) (SN)

Dear Judge Netburn:

As the Court is aware, in September 2019, the Federal Bureau of Investigation ("FBI") declassified the name of the individual identified in an October 2012 FBI report (the "2012 report") as the third main subject of the FBI's investigation, Musaed al-Jarrah, pursuant to section 3.1(d) of Executive Order 13,526. Upon declassification, the FBI produced a version of the 2012 report that referred to Mr. Jarrah in two places on page 4 of the report, subject to the FBI Protective Order (ECF No. 4255). The FBI has determined that it is no longer necessary to protect from public disclosure the two references to Mr. Jarrah on page 4 of the 2012 report.

Accordingly, we enclose a revised redacted version of the 2012 report, which releases the references to Mr. Jarrah on page 4 but continues to redact other information that has been released to counsel subject to the FBI Protective Order, as well as information the FBI has withheld from disclosure on the basis of the state secrets privilege and other privileges. The public disclosure of Mr. Jarrah's name in the context of the 2012 report does not affect the FBI's assertion of privilege as to other information in the 2012 report or any other documents.

In making this public disclosure, and in the interest of ensuring that neither plaintiffs nor the public are misled by inaccurate or incomplete phrasing in the 2012 report, which was meant to be an internal FBI document, the FBI reiterates that its determination to declassify and release Mr. Jarrah's name should not be taken as an affirmation or confirmation of the statements in the 2012 report concerning him. Declaration of Michael C. McGarrity, then-Assistant Director of FBI's Counterterrorism Division, dated September 12, 2019 (ECF No. 5142) ¶ 22. Then-Assistant Director McGarrity explained that, in retrospect, it would have been more appropriate to phrase the last sentence of the 2012 report and the statements about Mr. Jarrah at the top of the last page as an investigative theory being pursued by the FBI and not as objective statements of fact. *Id.*

The FBI will work with the parties to prepare revised redacted versions of public filings and Court orders in which references to these statements in the 2012 report were previously redacted or proposed for redaction.

We thank the Court for its consideration of this matter.

Respectfully submitted,

AUDREY STRAUSS
Acting United States Attorney for the
Southern District of New York

By: /s/ Sarah Normand
SARAH S. NORMAND
JEANNETTE A. VARGAS
ANDREW E. KRAUSE
Assistant United States Attorneys
Telephone: 212-637-2709/2678/2769

Encl.

cc: All counsel of record via ECF